

IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

AARON MULVEY AND	§	
CAROLYN MULVEY	§	
VS.	§	C.A. NO. 5:21-CV-01210-JKP-HJB
LIQUID PROPERTY GROUP, LLC,	§	
JOHN MICHAEL TIFFIN AND	§	
TINA ANDERSON	§	

**LIQUID PROPERTY GROUP, LLC'S REPLY TO
 PLAINTIFFS' MOTION TO COMPEL DISCOVERY**

Liquid Property Group, LLC, Judgment Creditor, files this its Reply to Plaintiffs' Response to Motion to Compel Discovery, as follows:

1. Plaintiffs admit in their Response to Defendant's Motion to Compel Discovery that "Defendants served fairly standard post-judgment request for production on or about May 23, 2023 via email to the undersigned counsel." (Plaintiff's Response, Paragraph 1).
2. Plaintiffs argue that Defendant's Motion to Compel Post-Judgment Discovery should be denied because "discovery is premature." Federal Rule of Civil Procedure 69(a)(2) permits a judgment creditor to obtain discovery from the judgment debtor as provided either in the Federal Rules or by the procedures of the state where the court is located. Tex. R. Civ. P. Rule 621(a) provides that at any time after rendition of the judgment, and so long as said judgment has not been suspended by a supersedeas bond or by order of a proper court, the successful party may, for the purposes of obtaining information in aid of the enforcement of such debt judgment, initiate and maintain in the trial court in the same suit in which said judgment was rendered any discovery proceeding authorized by these rules for pre-trial matters. Request for production of

documents are authorized both by the Texas Rules of Civil Procedure and the Federal Rules of Civil Procedure. If Plaintiffs wish to seek relief from what it describes in its response as a “minimal judgment”, both the state and federal rules provide for relief from proceedings to enforce a judgment by providing a bond or other security (FRCP Rule 62(b); Tex. R. App. P. Rule 24). Plaintiffs have made no effort to suspend the enforcement of the judgment by posting a bond or by utilizing any of the other methods provided for in the state or federal rules. Their requests that the court suspend enforcement of the judgment without them complying with those rules should be denied.

3. Secondly, Plaintiffs admit that their counsel was served with the discovery requests they seek to avoid, but represent to the court in their Response that “there is no agreement regarding service via email.” Once again, Plaintiffs take liberties with the truth. Attached as Exhibit A to this Response is an email from Plaintiffs’ counsel Ryan Reed to Defendant’s counsel Dakota Wrinkle in which Mr. Reed agrees: “Discovery and other service by email is just fine.”

4. Next, Plaintiffs claim that they should be entitled to avoid their discovery obligations because the discovery was served on Mr. Reed but not Mr. Mulvey. Service under Rule 5(b)(1) is effective when a party’s attorney of record has been served. There is no specific requirement in Rule 5 that each co-counsel must also be served in order for service to be effective. Particularly where Plaintiffs’ response admits that Plaintiffs were served by email (to which Plaintiffs had expressly agreed) and no claim is made that Mr. Mulvey did not have actual awareness of the discovery served on his counsel, nor is any prejudice claimed by reason of Plaintiffs’ lead counsel being served rather than Mr. Mulvey, the fact that the discovery was not also emailed to Mr. Mulvey does not excuse his compliance. Furthermore, Mr. Mulvey’s counsel

had previously announced to Defendants' counsel in an email dated April 6, 2022 that he was "in charge of the Federal court litigation now" and that "You can deal with me directly". (See Exhibit B attached hereto). Finally, "(F)ailure to object to requests for production within 30 days of the requests waives any objections the respondent may have." *Booklab, Inc. v. Jensen*, 2008 W.L. 11333871 at *1 (W.D. Tex. 2008) (not designated for publication); Fed. R. Civ. P. 34(b)(2)(A).

5. Defendant Liquid Property Group renews its request for expenses including attorney fees as provided in FRCP Rule 26(c)(3) and FRCP Rule 37(a)(5).

WHEREFORE, Liquid Property Group, LLC prays that its Motion to Compel Discovery be granted, for an award of expenses, including attorney fees, and for general relief.

Respectfully submitted,

Texas Landowner Law Firm, PLLC
1910 Pacific Avenue, Suite 5020
Dallas, Texas 75201
Telephone: (469) 833-3380

By: /s/ Dakota J. Wrinkle
Dakota J. Wrinkle
State Bar No. 24118592
dakota@texaslandownerfirm.com
Attorney for Judgment Creditor

Bayne, Snell & Krause
1250 N.E. Loop 410, Suite 725
San Antonio, Texas 78209
Telephone: (210) 824-3278
Telecopier: (210) 824-3937

By: /s/ Barry Snell
Barry Snell
State Bar No. 1878900
bsnell@bsklaw.com
Attorney for Judgment Creditor

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been served upon the following counsel of record on the 14th day of July, 2023:

Ryan C. Reed
Pulman, Cappuccio & Pullen, LLP
2161 NW Military Highway, Suite 400
San Antonio, Texas 78213

/s/ Barry Snell
Barry Snell

Exhibit A



Dakota Wrinkle <dakota@jonespropertylaw.com>

Mulvey/LPG

Ryan Reed <RReed@pulmanlaw.com>
To: Dakota Wrinkle <dakota@jonespropertylaw.com>

Tue, Apr 12, 2022 at 4:24 PM

Discovery and other service by email is just fine

Ryan C. Reed
Partner
Pulman, Cappuccio & Pullen, LLP
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(210) 892-0425 (Direct)
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rreed@pulmanlaw.com
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From: Dakota Wrinkle <dakota@jonespropertylaw.com>
Sent: Tuesday, April 12, 2022 4:16 PM
To: Ryan Reed <RReed@pulmanlaw.com>
Subject: Re: Mulvey/LPG

Thank you. Are you willing to consent to delivery of discovery by email or does your office require CM/ECF eservice.

Dakota

On Tue, Apr 12, 2022 at 4:10 PM Ryan Reed <RReed@pulmanlaw.com> wrote:

Thanks. I'll make a quick change to address. I generally don't change captions, but I will change it in the document itself

Ryan C. Reed

Pulman, Cappuccio & Pullen, LLP

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On Apr 12, 2022, at 4:07 PM, Dakota Wrinkle <dakota@jonespropertylaw.com> wrote:

Ryan.

Before you file, I forgot if we discussed Tina Anderson's name. Her actual name is Christina Anderson.

I know I've discussed this with Aaron before he hired you, but cannot remember if I conveyed the same to you.

Dakota

On Tue, Apr 12, 2022 at 4:03 PM Ryan Reed <RReed@pulmanlaw.com> wrote:

Terrific. Thank you

Ryan C. Reed

Partner

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From: Dakota Wrinkle <dakota@jonespropertylaw.com>

Sent: Tuesday, April 12, 2022 3:50 PM

To: Ryan Reed <RReed@pulmanlaw.com>

Subject: Re: Mulvey/LPG

I changed "answer" to "responsive pleading" and edited the date of service from "April 5" to "April 12".

I signed the Stipulation.

Thanks,

Dakota

On Tue, Apr 12, 2022 at 3:38 PM Ryan Reed <RReed@pulmanlaw.com> wrote:

Dakota,

Attached are the Stipulation reflecting our agreement, the motion for leave, the third amended complaint, and the proposed order granting. If the agreement meets with your approval, will you kindly advise and we will get everything filed? Thanks and best,

Ryan

Ryan C. Reed

Partner

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Exhibit B



Dakota Wrinkle <dakota@jonespropertylaw.com>

Mulvey - Amended Complaint

Ryan Reed <RReed@pulmanlaw.com>
To: Dakota Wrinkle <dakota@jonespropertylaw.com>

Wed, Apr 6, 2022 at 3:29 PM

I hear you, but I'm in charge of the federal court litigation now. I'll give you additional time to answer and we won't amend again.

Ryan C. Reed
Partner
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From: Dakota Wrinkle <dakota@jonespropertylaw.com>
Sent: Wednesday, April 6, 2022 2:56 PM
To: Ryan Reed <RReed@pulmanlaw.com>
Subject: Re: Mulvey - Amended Complaint

As soon as I touch base with my client I will get back with you. My main concerns are that this is now the third amended complaint in federal court and will be the fifth in state court. It's hard to prepare discovery and pre-trial motions with the constant amendments. Additionally, there were no additional facts that came to light in state court. Aaron read and forwarded to me a recorded California case and is now using that case's analysis and argument to try

and craft a cause of action that will stick in this case (probably because he knows the TREC contract doesn't guarantee water rights and his texts with my client prove he knew about the groundwater reservation before even signing the contract). Most of the attorney fees I've charged my clients are in regard to Aaron's constant deficient and changed pleadings.

Talk to you soon,

Dakota

On Wed, Apr 6, 2022 at 2:44 PM Ryan Reed <RReed@pulmanlaw.com> wrote:

Dakota,

Just wanted to check in and see your stance. I'd like to get this filed today if possible. Thanks,

Ryan

Ryan C. Reed

Partner

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From: Ryan Reed
Sent: Wednesday, April 6, 2022 8:26 AM
To: Dakota Wrinkle <dakota@jonespropertylaw.com>
Subject: RE: Mulvey - Amended Complaint

Dakota,

Attached is the Third Amended Complaint and the draft Motion for Leave. I'm happy to give you additional time to answer if you're not opposed. Thanks and best,

Ryan

Ryan C. Reed

Partner

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From: Dakota Wrinkle <dakota@jonespropertylaw.com>
Sent: Tuesday, April 5, 2022 3:17 PM
To: Ryan Reed <RRReed@pulmanlaw.com>
Subject: Re: Mulvey - Amended Complaint

Sounds good to me.

On Tue, Apr 5, 2022 at 3:16 PM Ryan Reed <RRReed@pulmanlaw.com> wrote:

How about I just send you the amended pleading in the motion for leave, and you can deal with me directly and tell me whether you're opposed?

Ryan C. Reed

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On Apr 5, 2022, at 3:11 PM, Dakota Wrinkle <dakota@jonespropertylaw.com> wrote:

Ryan:

I remember discussing the amended pleading with Aaron regarding the state court case, but not the federal case. Can you have Aaron forward that correspondence to me?

Dakota

On Tue, Apr 5, 2022 at 2:58 PM Ryan Reed <RReed@pulmanlaw.com> wrote:

Dakota,

Hope you're doing well. I understand that you visited with Aaron about this, but I just wanted to confirm. We are going to file a motion for leave to file a third amendment complaint, adding in some DTPA causes of action. I think I understood that you were not opposed to the filing of the third amended, but will you please confirm?

Ryan C. Reed

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